

27 APR 2006

#7



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Chiron Corporation  
Intellectual Property - R440  
P.O. Box 8097  
Emeryville, CA 94662-8067

In re Application of	:	
BRUCE et al.	:	
U.S. Application No.: 10/525,062	:	DECISION ON PETITION
PCT No.: PCT/US03/25879	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 20 August 2003	:	
Priority Date: 20 August 2002	:	
Attorney Docket No.: 002441.00123	:	
For: RANDOM TRANSPOSON INSERTION	:	
IN STAPHYLOCOCCUS AUREUS AND	:	
USE THEREOF TO IDENTIFY	:	
ESSENTIAL GENES	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 09 March 2006 to accept the application without the signature of joint-inventor, Kevin Hou.

**BACKGROUND**

On 20 August 2003, applicants filed international application PCT/US03/25879 which claimed a priority date of 20 August 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 February 2005.

On 18 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an information disclosure statement.

On 09 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 09 March 2006, applicants filed the present petition under 37 CFR 1.47(a).

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) - (4) have been satisfied.

Regarding item (1), applicants have only provided payment of \$130.00 for the petition fee. Applicant is advised that pursuant to 37 CFR 1.17(g) the petition fee is \$200.00. As authorized, the additional \$70.00 due will be deducted from deposit account no.: 19-0733.

As to Item (2), a review of the present petition and the accompanying papers reveals that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Kevin Hou. The steps taken by Michelle Couch are sufficient to show that the missing inventor, Kevin Hou, could not be reached after diligent effort.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

### CONCLUSION

The renewed petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459

27 APR 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Kevin Hou  
18123 NW Village Park Drive  
Issaquah, WA 98027

In re Application of  
BRUCE et al.  
U.S. Application No.: 10/525,062  
PCT No.: PCT/US03/25879  
Int. Filing Date: 20 August 2003  
Priority Date: 20 August 2002  
Attorney Docket No.: 002441.00123  
For: RANDOM TRANSPOSON INSERTION IN STAPHYLOCOCCUS AUREUS AND  
USE THEREOF TO IDENTIFY ESSENTIAL GENES

Dear Mr. Hou:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

A handwritten signature in black ink, appearing to read "Anthony Smith".

Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3298  
Facsimile: (571) 273-0459

Counsel of Record:  
Chiron Corporation  
Intellectual Property - R440  
P.O. Box 8097  
Emeryville, CA 94662-8067